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MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi-2, the 3rd December 1957

S.R.O. 3849.—In pursuance of section 17 of the Industrial Disputes Act, 1947, the Central Government hereby publishes the following award of Shri Salim M. Merchant, an Industrial Tribunal constituted under 7A of the said Act, in the industrial dispute between certain banking companies and their workmen in West Bengal.

BEFORE SHRI SALIM M. MERCHANT, B.A., LL.B., INDUSTRIAL
TRIBUNAL

Adj. 1 OF 1957

Parties:

1. Central Bank of India Ltd.
2. Bank of India Ltd.
3. United Commercial Bank Ltd.
4. United Bank of India Ltd.
5. Bank of Baroda Ltd.
6. Punjab National Bank Ltd.
7. Hindustan Commercial Bank Ltd.
8. Hindustan Mercantile Bank Ltd.
9. Hind Bank Ltd.
10. Bank of Behar Ltd.
11. Bank of Bikaner Ltd.
12. Bank of Jaipur Ltd.
13. Indian Bank Ltd.
14. Devkaran Nanjee Banking Co. Ltd.
15. Indian Overseas Bank Ltd.
16. Southern Bank Ltd.
17. Union Bank of India Ltd.

18. The Bank of Tokio Ltd.
19. The British Bank of the Middle East.
20. The Chartered Bank.
21. The Eastern Bank Ltd.
22. The Comptier National d' Escompte De Paris.
23. The First National City Bank of New York.
24. Grindlays Bank Ltd.
25. The Hongkong and Shanghai Banking Corporation.
26. Lloyds Bank of India Ltd.
27. The Mercantile Bank of India Ltd.
28. National Bank of India Ltd.
29. Netherlands Trading Society.
30. Allahabad Bank Ltd.
31. Bank of China.—*As employers.*

and

The workmen employed in the said Banking Companies in West Bengal.

RE: REFERENCE UNDER CLAUSE (d) OF SUB-SEC. (1) OF SECTION 10 OF THE INDUSTRIAL DISPUTES ACT, 1947 (ACT XIV OF 1947)

Calcutta, the 5th November 1957

PRESENT

Shri Salim M. Merchant, B.A., LL.B.,

APPEARANCES

For the workmen.—Counsel Shri S. K. Acharya, instructed by Shri T. Chakravarty, General Secretary, Bengal Provincial Bank Employees' Association and instructed by Shri Sushil Ghosh, Assistant Secretary, All India Bank Employees Association, for the workmen.

For the Banking Companies.—Counsel Shri A. C. Mitra, instructed by Shri S. K. Mullick, Solicitor, and Shri R. V. Govindan, Law Officer, United Commercial Bank Ltd., for the Indian Banks Association.

Shri S. K. Mullick, Solicitor, Messrs. Sandersons & Morgans, Solicitors, instructed by Shri D. Nan for the Calcutta Exchange Banks Association.

Counsel Shri K. B. Bose, instructed by Shri A. K. Roy, Secretary, for the United Bank of India, Ltd.

AWARD

The Government of India, Ministry of Labour & Employment, by Order No. LR. 10 (69)/57, dated 25th September, 1957, made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), was pleased to refer the industrial dispute between the 31 Banking Companies specified in Schedule I to the said order as employers and the workmen employed in the said Banking Companies in West Bengal, in respect of the following matters specified in Schedule II to the said order, for adjudication to me:

- (a) Whether in view of the award of the All India Industrial Tribunal (Bank Disputes) Bombay, constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35 dated the 5th day of January, 1952, as modified

in the manner referred to in section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955), the demand for compensatory allowance by the workmen employed in West Bengal in the banking companies specified in Schedule I is maintainable;

(b) If the demand is maintainable, what should be the amount of compensatory allowance having regard to—

- (i) the economic conditions now prevailing in the country and the necessity for checking inflation in prices and controlling the cost of living;
- (ii) the average emoluments of bank employees aforesaid as compared with the average emoluments of employees in other similar institutions in West Bengal;
- (iii) all other relevant circumstances.

2. After the notification was received by me on 27th September 1957 I issued notices on 30th September 1957 on the General Secretary, Bengal Provincial Bank Employees Association and the General Secretary, All India Bank Employees Association, which were served on them by hand delivery and copies of the same were also forwarded to them by registered post and under certificate of posting. I also had notices served upon the two Associations of Banks in West Bengal, namely, the Calcutta Exchange Banks Association and the Indian Banks Association. I further directed the Banks to affix copies of the notice at or near the main entrance of their establishments in West Bengal; I also had the notice published in English in the "Amrita Bazar Patrika", in Bengali in "The Jugantar" and in Hindi in "The Vishwamitra", which were published in their issues of 2nd October 1957. By the said notice I directed the workmen concerned in this reference to file their written statement by 14th October 1957 and the Banks to file their written statement in turn by 21st October 1957 and fixed the hearing of the Reference for 24th October 1957.

3. I may here state that the Bengal Provincial Bank Employees' Association moved the Hon'ble the High Court of Judicature at Calcutta under Article 226 of the Constitution against the order of reference herein and the earlier order of reference dated 17th September 1957 under sub-section (1) of Section 6 of the Industrial Disputes (Banking Companies) Decision Act, 1955. In that petition this Tribunal was joined as a respondent and his Lordship the Hon'ble Mr. Justice Mullick was pleased on 5th October 1957 to issue a Rule as prayed for in terms of (a) and (b) of the petition and to make it returnable on 18th November 1957. A minute copy of the said order dated 5th October 1957, signed by the Court Officer was duly served on me on 7th October 1957 by Shri Ramanath Ghose, Solicitor, representing the Bengal Provincial Bank Employees' Association. Later, upon the Banks Associations mentioning the matter before his Lordship on 10th October 1957, His Lordship was then pleased to direct that this Tribunal need not send the records and that further directions with regard to the production of the record would be passed on 29th October 1957. As no stay order was granted by the High Court in the said petition and as the records were not required to be sent to the High Court, I have proceeded with the hearing of this reference.

4. No written statement has been filed by either the Bengal Provincial Bank Employees' Association, or the All India Bank Employees' Association or any other union or any workman, but a joint written statement was filed on 21st October 1957 on behalf of the Banks by the Calcutta Exchange Banks Association and the Indian Banks Association. A separate written statement was also received on behalf of the United Bank of India Ltd., Calcutta.

5. At the hearing on 24th October 1957, Counsel Shri S. K. Acharya appearing for the Bengal Provincial Bank Employees Association instructed by its General Secretary, Shri T. Chakravarty and on behalf of the All India Bank Employees Association, instructed by its Assistant Secretary, Shri Sushil K. Ghosh, applied for an adjournment. He filed a typed sheet containing a copy of the letter dated 18th October 1957 which had been addressed by the General Secretary, Bengal Provincial Bank Employees Association to Dr. B. C. Roy, Chief Minister to the Government of West Bengal and a copy of the memorandum of terms of settlement suggested by that union for the solution of the deadlock created by the bank strike. In that typed sheet the statement issued by Dr. B. C. Roy on 18th October 1957 has also been reproduced. In support of this application for adjournment Shri Acharya stated that through the intervention of the Chief Minister of West Bengal, the strike of the bank employees which had commenced on 18th October 1957 had been called off on 19th October 1957 and that one of the terms of settlement embodied in the memorandum submitted by the General Secretary, Bengal Provincial Bank Employees Association was that the Banks employees will place before the West Bengal Government for transmitting to the Central Government revised terms of reference for the Tribunal appointed by the Government of India to consider the question of compensatory allowance to the bank employees. The West Bengal Government will forward the same to the Central Government for their favourable consideration. Shri Acharya relied upon the statement dated 18th October 1957 issued by the Chief Minister Dr. B. C. Roy in which he stated that he had agreed to forward to the Government of India suggestion, if any, of the employees for altering the terms of reference to the Tribunal.

6. Shri A. C. Mitra, learned Counsel representing the Indian Banks Association strenuously opposed this application for adjournment and his grounds were that as no order had been served upon this Tribunal by the Central Government, revising the terms of the present reference, the hearing should be proceeded with. He also pointed out that no time limit had been fixed within which the suggestion for the alteration of the reference was to be made by the bank employees and that Dr. B. C. Roy had only agreed to transmit to the Central Government the suggestion, if any, for the alteration of the terms of reference which the employees might make and that there was nothing to suggest that the Central Government would accept any alteration in the terms of reference already made. Shri S. K. Mullick, Solicitor, representing the Calcutta Exchange Banks Association and Counsel Shri K. B. Bose, for the United Bank of India Ltd. also opposed the application for adjournment.

7. As stated above, the Bengal Provincial Bank Employees' Association and the All India Bank Employees' Association failed to file their written statements in this reference by 14th October, 1957, even though they had sufficient notice to do so. Besides, since the strike was called off on and from 19th October, 1957, these two Associations had taken no steps to intimate to the Government of West Bengal, to enable it to transmit to the Central Government, the alteration, if any, they desired in the order of reference already made. There is also nothing to indicate that the Central Government would accept the suggestion of the bank employees for alteration in the terms of the present reference if and when they chose to make it. Shri Acharya was emphatic in his assertion that unless the adjournment asked for was granted the two Bank Employees' Association were not prepared to file their written statement or to take part in these proceedings. It, therefore, appeared to me that the two Bank Employees' Associations, which represent the Bank Employees concerned in this reference, were only trying to delay the expeditious disposal of this reference and were not serious in presenting their case, I, therefore, refused the application for adjournment and

thereupon Shri S. K. Acharya and the representatives of the two Associations of bank employees, namely, Bengal Provincial Bank Employees Association, and the All India Bank Employees' Association withdrew from this reference and it has become necessary to proceed with the reference in their absence.

8. At the hearing on 28th October, 1957, applications were filed by and on behalf of the Southern Bank Ltd. (Item No. 16), Union Bank of India Ltd. (Item No. 17), and the Bank of Tokyo Ltd. (Item No. 18), stating that no dispute exists between these banks and their respective employees over the issues mentioned in the schedule to the order of reference herein. They further stated that no demand had been made by their employees or any union on their behalf for compensatory allowance and their employees had not resorted to any strike for the enforcement of the demand or otherwise. These banks therefore pray that they should be excluded or exempted from the effect of the award that this Tribunal may make in this dispute. I therefore direct that the award herein shall not apply to these three banks.

9. I may here state that at the hearing before me the remaining 28 banks have filed affidavits as directed in proof of their having caused to be affixed the notice from this Tribunal dated 30th September, 1957 outside the banks' establishments and also of having affixed a further copy thereof on the notice board of the banks inside the bank establishments.

10. Before proceeding to deal with the dispute, it is necessary to state that by a notification No. LR. 10(69)/57, dated 17th September, 1957, made in exercise of the powers conferred by sub-section (1) of Section 6 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955) the Central Government was pleased to refer to me for decision as a Member of the Labour Appellate Tribunal, the following matter specified in the schedule to the said order:

"Whether the demand for compensatory allowance by the workmen in the banking companies in West Bengal is covered by the directions contained in the award of the All India Industrial Tribunal (Bank Disputes) constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, modified as aforesaid."

The two Banks' Associations, namely the Calcutta Exchange Banks Association and Indian Banks Association in their written statement filed in this reference have urged that as no written statement had been filed in this reference by and on behalf of the workmen, it was presumed that the workmen had no claims to make in this reference, and the banks were not called upon to file any written statement. However, without prejudice to that contention, the Banks in their written statement have firstly contended that item (a) in Schedule II to this reference is in similar terms to the reference made to me as a Member of the Labour Appellate Tribunal under Section 6 of the Industrial Disputes (Banking Companies) Act, 1955 and that as they had contended in that reference that the demand for compensatory allowance is covered by the directions contained in the Sastry Award, my decision in that reference accepting their said contention would conclude the matter and no further adjudication on the present reference would be necessary.

11. As it will be noticed the two references have been made under two different Statutes. Though both the references have been made to me, they have been made to me as two different forums. There is also a difference in the scope of the enquiry in the reference under the Industrial Disputes (Banking Companies) Decision Act, 1955 and of the adjudication on item (a) of the present reference, which it under the Industrial Disputes Act,

1947. The first reference is merely one of interpretation, namely whether the demand for compensatory allowance is covered by the directions contained in the award of the All India Industrial Tribunal (Bank Disputes) as modified. In the present reference under item (a) the question is different inasmuch as the question is whether the demand for compensatory allowance is maintainable in view of the award of the All India Industrial Tribunal (Bank Disputes), Bombay, as modified. In my opinion the scope of the two references is also different, this reference being wider in its scope. No doubt a lot of common ground may have to be covered in deciding the two references but that does not mean that the decision in the first reference would conclude the present reference.

12. The banks in their written statement have briefly traced the background to the present dispute. It appears that early this year the workmen of banks in different parts of India started making demands on their managements for a compensatory allowance on the alleged ground of rising cost of living. In or about June 1957 similar demands were received by the members of the Calcutta Exchange Banks Association and the Indian Banks Association from their respective workmen's unions in West Bengal; the rate of compensatory allowance demanded being 25 per cent on emoluments. On 20th August 1957 the General Secretary of the Bengal Provincial Bank Employees Association addressed a memorandum to the Chairmen of these two Banks Associations making a demand for payment to the bank employees as compensatory allowance, in addition to their existing emoluments, at least 25 per cent of their basic pay with a minimum of Rs. 20 on the ground of continued rise of price of essential commodities. The Banks Associations took the view that the said demand was not maintainable in view of the award of the All India Industrial Tribunal (Bank Disputes), Bombay, as modified in the manner referred to under section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955) and further that the demand was not justified on merits as well. On 4th September 1957 the Bengal Provincial Bank Employees Association passed a resolution that unless the compensatory allowance as claimed was granted the Bank employees would go on strike from 18th September 1957. A deputation of the Banksmen met the Chairmen of the two Banks Associations but no settlement could be reached and from 18th September 1957 the Banksmen struck work and continued the strike for 31 days till it was called off on 19th October 1957.

13. Before dealing with the two issues under reference, I think it necessary to give a brief resume of the events leading up to the passing of the Industrial Disputes (Banking Companies) Decision Act, 1955. On 30th April 1949, the Industrial Disputes (Banking & Insurance Companies) Ordinance (No. VI of 1949) was promulgated, by which the Central Government took upon itself the responsibility in the matter of settlement of disputes in respect of Banking and Insurance Companies, that have branches and establishments in more than one State. Thereafter, on 13th June 1949 the Central Government referred for adjudication a number of disputes between the banking companies in the country and their employees to an All India Industrial Tribunal known as the Sen Tribunal. That Tribunal gave its award in July 1950, which was published in the Government of India Gazette on 12th August 1950. But the award was subsequently set aside by the Hon'ble Supreme Court in April 1951. The matter was subsequently referred in January 1952 to another All India Industrial Tribunal which was constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated 5th January 1952. This Tribunal is known as the Sastry Tribunal and it gave its award in April 1953. On appeal, the Labour Appellate Tribunal by its decision dated 28th April 1954, made certain alterations in the award, but the

Government of India by the Ministry of Labour S.R.O. No. 2732 dated 24th August 1954, modified the Appellate Decision under section 15 of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950). In making the modification the Government was necessarily guided by the material available at that time. It was, however, considered desirable to collect more complete data and to have the matter investigated further in the light of those data. Government, therefore, appointed a Single Member Commission of Inquiry known as the Bank Award Commission consisting of a Judge of the Bombay High Court. The Commission was requested to conduct a fact-finding enquiry and make recommendations in the decision of the Labour Appellate Tribunal as adopted by the Government Modification Order. The Commission submitted its recommendations at the end of July 1955 and in Chapter XI thereof recommended certain modifications in the decision of the Appellate Tribunal. The Government accepted in full the recommendations of the Commission of the substantive terms of the award, and in order to give effect to the recommendations of the Commission, the Government introduced a Bill in Parliament which was subsequently enacted as the Industrial Disputes (Banking Companies) Decision Act, 1955 (11 of 1955). Considering that the dispute had been pending since 1949 and that it had taken so long to finalise the terms and conditions of service of the employees in question (Bank employees), it was considered desirable that those terms and conditions should remain in operation for at least five years instead of the normal period of one year then provided for in the Industrial Disputes Act, 1947. Accordingly, Sections 3 and 4 of the Act provide as follows:

"3. Appellate decision to have effect subject to the modifications recommended by the Bank Award Commission.—The appellate decision shall have effect as if the modifications recommended in Chapter XI of the Report of the Bank Award Commission dated the 25th July 1955, had actually been made therein, and the appellate decision as so modified shall be the decision of the Appellate Tribunal within the meaning of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), and the award shall have effect accordingly."

"4. Duration of the Award.—Notwithstanding anything contained in the Industrial Disputes Act 1947 (XIV of 1947), or the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the award as now modified by the decision of the Appellate Tribunal in the manner referred to in Section 3 shall remain in force until 31st day of March, 1959."

14. There are two matters referred for my adjudication. The first matter is whether the demand for compensatory allowance of the employees in West Bengal of these 31 Banks is maintainable in view of the award of the All India Industrial Tribunal (Bank Disputes) as modified in the manner referred to in Section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955. The second matter is to be enquired into only if the answer to the first issue is in the affirmative and the question then is what should be the compensatory allowance having regard to the considerations mentioned in clauses (i), (ii) and (iii).

15. I now proceed to consider the first issue. The Banks' Associations in their written statement have contended with regard to Issue (a) that the demand for compensatory allowance is not maintainable and in support they have urged that the entire field of salaries and allowances and other terms of employment in banks throughout the country was a matter of a prolonged adjudication and these matters were finally decided by enforcement of the modified award [by which term they mean the Award of the All India

Industrial Tribunal (Bank Disputes) as finally modified in the manner referred to in section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 and I shall also adopt this term when referring to the same] by an enactment known as Industrial Disputes (Banking Companies) Decision Act, 1955 under which the modified award continues to be in force and binding on the banks as well as the employees including such workmen in West Bengal, till 31st March, 1959; that the issues finally settled in the modified award included items 1, 2, 3 and 4 relating to scales of pay, dearness allowance, house rent allowance, and other allowances mentioned in Schedule II to the Government order of reference No. S.R.O. 36 dated 5th January, 1952; that the question of compensatory allowance which was specifically included in the reference was fully and finally dealt with and decided in the modified award which has made due provision to meet the differences in the cost of living in different areas; that the award did not rest with finally deciding the proper wages of workmen in banks in different parts of India but also with reference to the prevailing conditions at the time of the adjudication but that it also took into account all possible changes in the prevailing conditions and made provisions thereof as well by providing a method of adjustment of payment of dearness allowance for variation in the cost of living index. The Associations in their written statement have referred to several observations contained in the Award of the Sastry Tribunal, the decisions of the Labour Appellate Tribunal and of the Bank Award Commission and they have urged that the demand for compensatory allowance, now made by the workmen is fully covered by the modified award and was therefore not maintainable.

16. By notification of the Government of India, Ministry of Labour & Employment, No. S.R.O. 35 dated 5th January, 1952, the All India Industrial Tribunal (Bank Disputes) otherwise known as Sastry Tribunal was constituted and by S.R.O. No. 36, of the same date the Government referred as many as 34 matters as specified in the Schedule to the said order, for adjudication to the Tribunal. The dispute was on an all India basis and practically every important point relating to the cash emoluments (basic pay, dearness allowance, house rent and other allowances) and other terms and conditions of service of the clerical and subordinate staff employed in banks throughout India were covered by the adjudication. The first four matters referred to the Tribunal related to:

1. Scales of pay, including:—

- (a) whether the remuneration of workmen and their periodical increments should be corrected to their efficiency and attendance, and
- (b) whether, if basic scales are recommended such scales of pay of particular categories should be uniform all over India and whether the difference in the cost of living of the various centres should be adjusted by the grant of compensatory allowances.

2. Dearness allowance to staff as well as pensioners. Can a portion of the dearness allowance be transferred to, and absorbed in the basic wage? In particular can this be done in the case of banks in the United Provinces in respect of the allowance payable at the commencement of Shri B. B. Singh's award.

3. House rent allowance. If this allowance is payable, should it be paid to all workmen.

4. Other allowances (other than travelling allowance and halting allowance) payable, for example, education of children's

allowance, washing allowance, hill allowance, fuel allowance, grain allowance, Poona Cantonment allowance, officiating allowance, scarcity allowance, border allowance, local allowance and six-monthly accounting allowance."

17. The Sastry Tribunal classified the country into three areas on a population basis. (See para 80 at page 27 of the Award.) This three-fold classification of areas was meant to provide to a substantial extent for the differences of the cost of living in the different parts of India. The Tribunal also classified all banks into 4 classes, namely, A, B, C and D on the basis of their working funds, which was also the standard of their financial capacity to meet the demands under reference. (See para 25 at page 19 of the Sastry Award.) I may pause here and state that I was told at the hearing that about 9,000 bank employees in West Bengal were concerned in this reference, the vast majority of whom, numbering about 7,500, were employed in Calcutta city, which is classified in area I and as such they are entitled to the higher scales of pay, rates of dearness allowance, house rent allowance and other benefits fixed for banks in class I area.

18. The Sastry Tribunal awarded in all 12 scales of basic pay for the four classes of banks, the scales of each class of bank being different in each of the three areas in which the country was divided. This scheme is explained in para 116 of the Award where it is observed:

"116. Before laying down our scale, we might explain that what we propose to do is to have four scales for the four different groups of banks as classified by us. The differences in the cost of living in different parts of the country are provided for to a substantial extent by having a three-fold classification of areas. The extra cost of house rent, over and above its normal incidence will be covered by a special house rent allowance for a few selected and more costly places."

The 12 scales of basic pay prescribed by the Sastry Tribunal for the clerical staff are to be found in para 119 of the Award. In view of the improvements made by the decision of the Labour Appellate Tribunal it is not necessary to re-produce the scales of pay here except to state that they constituted a combined running scale with a start of Rs. 51 per month for the Class D banks in area III with a maximum of Rs. 280 for the clerks in Class A banks in area I. Similarly, for the subordinate staff the Sastry Tribunal prescribed 12 scales of pay which also constituted a running scale starting with Rs. 28 for the Class III Bank in area III with a maximum of Rs. 72 for the class A banks in Area I. (See para 137 at page 42.) In addition to these scales of pay the Sastry Tribunal prescribed dearness allowance for the clerical staff at a basis of $31\frac{1}{3}$ per cent. of the basic pay with a minimum of Rs. 55 and a maximum of Rs. 70 per month for A, B, C and D banks in area I and with a minimum of Rs. 30 and maximum of Rs. 60 in area II, and a minimum of Rs. 25 and Rs. 40 in area III. (See para 120 at page 38.) For the subordinate staff the Sastry Tribunal prescribed dearness allowance at a flat rate varying with the class to which the Bank belonged and the area in which it was situated. The highest amount of dearness allowance is Rs. 35 per month for the class A banks in area I and the lowest amount being Rs. 10 for the class D Bank in area III. In addition to the dearness allowance so prescribed the Sastry award provided for an automatic adjustment of the amount of dearness allowance according to the variations in the cost of living for the future. Taking the figure of 144 (base 1944=00), which was the average of the all-India working class cost of living index number for the year 1951, the award directed that if the average figure for the each half year, i.e., January to June or July to December of each calendar year were to rise or

fall by more than 10 points over 144, the dearness allowance for the succeeding half year should rise or fall by $7\frac{1}{2}$ per cent. of the basic pay. It further directed that the figures finally published in the Indian Labour Gazette should be taken as a correct index for the calculation of dearness allowance. The Tribunal in fixing the scales of adjustment observed:

"152. Another important matter which requires consideration is whether it is possible to make a provision for automatic adjustment of the rates of dearness allowance according to the variations in the cost of living at least for the future. It is undoubtedly desirable to do so if a reasonable formula can be arrived at. The difficulty so far has been the absence of an all-India cost of living index. No doubt it is to some extent anomalous to rely exclusively on such an index which can only be an average all-India index with reference to indices of several places in this huge sub-continent. But on the whole, and to have an uniform rate as far as possible, it is not unreasonable to link the future dearness allowance with such an index."

19. On the demand for house rent allowance, the Tribunal was of the opinion that whilst normally house rent is included in the cost of living, there are certain big cities in the country in which housing accommodation is scarce and rents are normally high, notwithstanding the Rent Restriction Acts which are in force. It, therefore, thought it necessary to consider these special cases and directed payment of house rent allowance for bank employees working in cities with a population exceeding 7 lakhs. For the bank employees in Calcutta and Bombay even higher rate of house rent allowance was prescribed as follows:

	Calcutta and Bombay	Other Places with population of 7 lakhs
(a) Where pay does not exceed Rs. 100 per month	8	6
(b) Where pay exceeds Rs. 100, but not Rs. 200 per month	12	9
(c) Where pay exceeds Rs. 200 per month	16	12

(1) For the subordinate staff the Sastry Tribunal granted a house rent allowance at the flat rate of Rs. 8 per month for Calcutta and Bombay and Rs. 6 per month for other places with a population of 7 lakhs and over.

(2) On item No. 4 relating to other allowances which included a demand for local allowance the Tribunal rejected the demand observing in para 182 at page 53 of its Award as follows:

"Local Allowance.—The allowance is intended to compensate the high cost of living in certain areas. In our Award area-wise differentiation in pay and allowances including the dearness allowance has taken into account local differences. Besides we have given a house rent allowance to cover the extra cost of accommodation in certain places. No further directions are necessary."

20. Against the Sastry Tribunal's Award the Bank employees, as also some of the Banks, appealed to the Labour Appellate Tribunal. At this stage I might state that even before the Labour Appellate Tribunal, as before the Sastry Tribunal, both employers and employees had laid emphasis on the desirability of fixing wage structure on an all-India basis. This is clearly

established by the observations contained in para 38 of the Labour Appellate Tribunal decision where it is stated:

"During the course of the discussion a great deal was said about the undoubted fact that prices and conditions of life vary greatly in different parts of India, but nevertheless it is the unanimous desire of the employers as well as the employees that the wage structure should be fixed on an all-India basis, whatever the disadvantages may be."

The same point is again referred to in para 55 of the decision where it was observed:

"55. We accordingly appreciate the difficulties which are inherent in an all India adjudication, but since all the parties wish to have a decision on an all-India basis, and not State by State, we must endeavour to the best of our ability to satisfy that general requirement. It might well be that in the process some areas might get more than what they would have otherwise got, and others less, but that must be expected in the case of an all-India adjudication, and will be no more out of line than the application of the Central Government's scale of emoluments to all clerks wheresoever they may be in India."

21. The Labour Appellate Tribunal by its decision improved the scales of pay granted by the Sastry Tribunal for both the clerical and subordinate staff and they are set out in para 109 of the decision. I give below the starting and the maximum pay fixed by the Labour Appellate Tribunal for the A, B, C banks in areas I, II and III which are as follows:

Class A Banks

Area	Minimum	Maximum
	Rs	Rs.
I	85	230
II	77	255
III	73	245

Class B Banks

I	77	255
II	69	236
III	66	227

Class C Banks

I	69	236
II	63	218
III	60	209

22. The Labour Appellate Tribunal, however, granted a substantial increase in the rate of dearness allowance prescribed by Sastry Award for both the clerical and subordinate staff as shown below.

Dearness Allowance for A, B and C Class Banks

	Minimum		Maximum
Area I	50	First slab of Rs. 100 .	50%
		Second " " " " .	40%
		Thereafter .	35%
Area II	45	First slab of Rs. 100 .	45%
		Second " " " " .	35%
		Thereafter .	30%
Area III	40	First slab of Rs. 100 .	40%
		Second " " " " .	30%
		Thereafter .	25%

For the subordinate staff also the dearness allowance was increased as stated in para 112 of the decision.

23. The Labour Appellate Tribunal confirmed and retained the method of adjustment prescribed by Sastry Award and observed in para 105 of its decision as follows:

".....The Sastry Tribunal came to the conclusion that the rate of dearness allowance of future half years commencing from July 1953 to December 1953 onwards should be linked to the rise or fall in the all-India cost of living index (see paragraph 152). The Award accordingly directed that if the average figure for each half year from January to June and July to December of each calendar year should rise or fall by more than 10 points over 144 the dearness allowance for the succeeding half year should rise or fall by $7\frac{1}{2}$ per cent. of the basic pay. Labour has taken objection to the quantum of dearness allowance and also to the ceiling imposed, but there is a general absence of objection to the scheme of dearness allowance as given by the Award. We shall therefore retain the framework of the scheme of dearness allowance, but shall alter the figures in such manner that a fair measure of neutralization is achieved. The basic wage, plus house rent allowance of each employee, would then reach a figure which we consider to be fair a total emolument. A contention was raised that a rise or fall of more than 10 points over 144 before any change is effected was too much and that it should be reduced in order to allow for a closer and more accurate adjustment; but we do not think that this requires any alteration."

24. With regard to house rent allowance the Labour Appellate Tribunal confirmed the rates prescribed by the Sastry Award for both the clerical and the subordinate staff. The Sastry Award rejecting the local allowance was also confirmed by the Labour Appellate Tribunal.

25. As stated earlier the decision of Labour Appellate Tribunal was thereafter subjected to a fact finding enquiry by the Bank Award Commission consisting of Hon'ble Shri Justice P. B. Gajendragadkar. The Commission submitted its report to Government on 25th July, 1955, and in the light of the facts ascertained and the conclusions reached by the Commission, it made certain recommendations which are stated in Chapter XI of the Report. These recommendations were accepted in full by the Government and later incorporated in Section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955.

26. The Bank Award Commission recommended that the Labour Appellate Tribunal's decision should be restored in the case of all Class A banks, Indian and Foreign, all class B Banks except the Bank of Bikaner Ltd. and the United Bank of India Ltd. and all class C banks except eight banks mentioned, subject to the modifications mentioned in clause 1(a) to 1(f) in Chapter XI of the Commission's Report. Under its recommendations considerable relief was granted to Class D banks and certain banks in Class C. One of the most important recommendations made by the Bank Award Commission was with regard to the matter of adjustment of dearness allowance. The Bank Award Commission held that *prima facie* there was no justification for linking the Labour Appellate Tribunal dearness allowance formula, which was otherwise unexceptionable, to a method of adjustment, which leads to

anomalies. In para 105 of the Report the Commission therefore observed and directed as follows:

"105. *Adjustment formula revised.*—I have bestowed considerable thought on this question. There is, in my opinion, *prima facie*, no justification for linking the Labour Appellate Tribunal dearness allowance formula which is otherwise un-exceptionable to a method of adjustment which leads to anomalies. I feel at the same time that whatever alternate formula may be devised it should have the merit of interfering as little as possible with the Labour Appellate Tribunal wage structure and of ensuring results not significantly different from those achieved by the Labour Appellate Tribunal formula. I accordingly recommend the following formulae for adjustment of dearness allowance:

Clerical staff.—If the average all-India cost of living index for the half year ending June or December of any year should rise or fall by more than 10 points as compared to 144 (1944=100), the dearness allowance for the succeeding half year will be raised or lowered by one-seventh of the dearness allowance admissible at the index level of 144 for each variation of 10 points.

Subordinate staff.—If the average all-India cost of living index for the half year ending June or December of any year should rise or fall by more than 10 points as compared to 144 (1944=100), the dearness allowance for the succeeding half year will be raised or lowered by one-tenth of the dearness allowance admissible at the index level of 144 for each variation of 10 points.

I would like to add in this connection that I consulted both bankers and employees in regard to the two formulae for adjustment of dearness allowance which I have just recommended. Employees, on the whole, agreed with my formulae, whilst there appeared to be a difference of opinion amongst bankers on this point."

27. The banks in their written statement have also referred and relied upon the observations contained in paragraphs 89, 99 and 106 of the Bank Award Commission. The Government of India fully accepted the recommendations of the Bank Award Commission and modified the decision of the Labour Appellate Tribunal as so recommended and passed a special enactment namely Industrial Disputes (Banking Companies) Act, 1955 to give effect to those modifications. By Section 4 of the said Act the modified award has been made binding on the banks as well as their employees till 31st March, 1959. The parties to the dispute under reference are therefore at present governed by the directions contained in the modified award.

28. As a result, under the modified Award the position with regard to pay, dearness allowance, house rent allowance and other terms and conditions of service for the clerical and subordinate staff employed in "A" class Banks in Calcutta are as follows:

	Clerical staff	Subordinate staff
AT START	Rs.	Rs.
Basic pay	85	40
Dearness allowance	50	42.50
House rent allowance	8	8
TOTAL	143	90.50

	Clerical Staff	Subordinate Staff
	Rs.	Rs.
ON COMPLETION OF 10 YEARS' SERVICE		
Basic pay	148	57
Dearness allowance	69 20	42 50
House rent allowance	12	8
TOTAL	229 20	107 50
ON COMPLETION OF 20 YEARS' SERVICE		
Basic pay	236	67
Dearness allowance	102 60	42 50
House rent allowance	16	8
	350 60	117 50
ON COMPLETION OF 25 YEARS' SERVICE		
Basic pay	280	72
Dearness allowance	118	42 50
House rent allowance	16	8
TOTAL	414	122 50

In addition they enjoy the following benefits.

1. Medical expenses up to Rs. 90 per year.
2. Provident Fund contribution by banks at 8 1/3 per cent. of basic pay.
3. *Gratuity on retirement*.—One month's salary for every completed year of service with a maximum of 15 months salary or pension in lieu thereof.
4. *Bonus*.—One to four months' salary as declared by banks.

From the foregoing it is clearly seen:

- (1) That the question of what should be the proper wages, dearness allowance and other allowances and other terms and conditions of service of bank employees throughout India, including West Bengal, was thoroughly gone into by enquiries conducted over a period of years extending from 1949 to 1955 by a body of eminent adjudicators and jurists and those terms and conditions have by an enactment of Parliament been made binding until 31st March, 1959. That the 31 banks under reference and their bank employees in West Bengal are bound by the terms of the modified award till 31st March, 1959. That the whole scheme of the modified award was on an All India basis and not State-wise and it is clear that the bank employees themselves had desired that the adjudication should be of an all India basis.
- (2) That this was with a view to give a finality to the modified award and in order that industrial peace may not be disturbed by the matters covered by the modified award being re-agitated at short intervals, the modified award was enforced till 31st March, 1959.
- (3) That the basic pay and dearness allowance and other terms and conditions of service prescribed by the modified award were

fixed taking into account the fair requirements of the bank employees and the capacity of the banks to meet the same.

- (4) That in fixing a sliding scale of dearness allowance the principles laid down by the Fair Wages Committee were duly respected.
- (5) That the formula for adjustment of dearness allowance provided an automatic adjustment to the rise or fall in the cost of living on an all India basis. That the formula for adjustment which is in force now is the one recommended by the Bank Award Commission and it is that if the average of all India cost of living index for the working class for the half year ending June or December of any year should rise or fall be more than 10 points as compared to 144 (1944=100), the dearness allowance for the succeeding half year will be raised or lowered by 1/7th of the dearness allowance in the case of clerical staff and 1/10th of dearness allowance in the case of subordinate staff admissible on the index figure of 144 for each variation of 10 points. It will thus be seen that the future variations in the cost of living are properly looked after by this formula and that the bank employees themselves on the whole had agreed to the formula. (See para 105 of the Bank Award Commission Report and 106 of the Labour Appellate Tribunal decision).
- (6) That the Bank Award Commission examined the incidence of the adjustment formula and allowed one adjustment downward and one upward so as to cover the range 125 to 163 (base 1944=100) or 325 to 424 of the pre-war base on the basis of the All India average cost of living index for the working class.

29. For the determination of issue (a) it is necessary to decide whether the demand of the workmen for compensatory allowance is maintainable in view of the provisions of sections 3 and 4 of the Industrial Disputes (Banking Companies) Decision Act, 1955. In order to do so, it is first necessary to examine the reasons stated by the bank employees in making this demand. As it has been clearly stated in the Resolution of the Bengal Provincial Bank Employees Association passed on 4th September, 1957, this demand has been made on the alleged ground of the steep and abnormal rise in the cost of foodgrains and other basic necessities of life in West Bengal. The demand therefore is for additional cash payment to compensate them for the rise in the cost of living. It is, therefore, in effect a demand for payment of higher dearness allowance, though it has been worded as being a demand for compensatory allowance. The question, therefore, that falls for determination is whether in view of the terms of the modified award which have been put into force by Section 4 of the Industrial Disputes (Banking Companies) Decision Act, 1955 till 31st March, 1959 such a demand is maintainable.

30. The banks in their written statement have urged that in demanding compensatory allowance in addition to the existing dearness allowance, which is intended to compensate the rise in prices, the workmen are really trying to re-open a question which has been duly settled after an exhaustive and prolonged enquiry which forms part of the modified award and which continues to be in force and binding on them as well as the banks. They therefore contend that the demand is not maintainable. In my opinion, this contention is correct and must be upheld.

31. There can be no doubt that the formula for adjustment of dearness allowance automatically compensates the bank employees' for a substantial rise in the cost of living. This formula of adjustment, as pointed out by the

Bank Award Commission, was on the whole acceptable to the workmen themselves. It is relevant to observe here that in the award of the Sen Tribunal which preceded the Sastry Award, the Dearness Allowance of bank employees had been directly linked to the cost of living index at the place at which the employee is working or, in the absence of such an index, the cost of living index of the place nearest to it for which such an index was available. The Sastry Tribunal found that this led to anomalies which caused both the banks and the workmen to condemn that scheme. It was for this reason that the All India average working class cost of living index was adopted as the basis, by the Sastry Award and the same was confirmed by the Bank Award Commission. As long as this formula remains in force it would not be open for the Bank employees in any state to claim that they should be paid higher dearness allowance in the shape of a compensatory allowance for any rise that may have taken place in their state in the cost of living unless that rise also had affected the All India average index number so as to increase it over 10 points over the figure of 144 (Base 1944=100). To do so would be to re-open the whole question of the payment of dearness allowance as prescribed by the modified award which under Section 4 of the Industrial Disputes (Banking Companies) Decision Act, 1955 has been directed to remain in force till 31st March 1959. In other words such a demand goes against the express provisions of an enactment of Parliament and therefore would not be maintainable in law.

32 The Banks have contended that under the formula of adjustment of dearness allowance as prescribed by the modified award, the bank employees have not become entitled to payment of any increased dearness allowance. For that purpose they have filed a statement showing the all India average consumer price index number for the working class for the period from January 1956 to June 1957 which covers three six monthly periods ending June 1956, December 1956 and June 1957. It may here be stated that what was formerly known as the all India average cost of living index number for the working class is now called the all India average consumer price index number for the working class, the change being merely a change in nomenclature. The index numbers are given for each month during this period with base 1944=100 and 1949=100 and a conversion of the index numbers with base 1949=100 to the base 1944=100 has been effected by multiplying the former figure by the conversion factor, which is 1.38. The source for these figures are the Indian Labour Gazette, Volume XIV, No. 9, March 1957 and Vol. XV, No. 2, August 1957. The statement is as follows:

All India Average Consumer price index numbers for working class.

Source

Indian Labour Gazette Vol XIV No. 9, March, 1957.

" " " " XV No 2, August, 1957.

Period 1956	Base 1949=100	Base 1944=100†
Jan	97	133.86
Feb	97	133.86
March	100	138.00
April	103	142.14
May	104	143.52
June	106	145.23
Average for six months	101.17	139.61

Period 1956	Base 1949=100	Base 1944=100†
July	107	147.66
August	109	150.42
September	108	149.04
October	109	150.42
November	110	151.80
December	109	150.42
Average for six months	108.67	149.96

1957 :

Jan.	107	147.66
Feb.	107	147.66
March	107	147.66
April	107*	147.66
May	109*	150.42
June	111*	153.18
Average for six months	108	149.04

*Provisional.

†To convert the 1949 base to the 1944 base, the former figure has been multiplied by 1.38 vide footnote to the tables at page 768 of the March 1957 volume and at page 200 of the August 1957 volume of the Indian Labour Gazette.

33. It will thus be seen that the average index number for the period of six months ending June 1956 with the base 1944=100 was 139.61 which was lower by 4.39 points than the cost of living index figure 144 adopted by the Banks award. The average monthly index number for the period of six months ending December 1956 was 149.96, that is to say there was a rise over the figure of 144 by 5.96 points and for the period of six months ending June 1957 the average was 149.91 showing a rise of 5.94 points over the figure of 144 (Base 1944=100).

34. It is thus seen that during the three six monthly periods ending June 1956, December 1956 and June 1957 in no single period of six months was there a rise in the cost of living index figure by 10 points over the figure of 144 (Base 1944=100) to justify the demand of any increase of Dearness Allowance to the bank employees on the terms of the modified award. In fact, there was not a rise of 10 points over the figure of 144 in any single month during the entire period from January 1956 to June 1957.

35. With regard to the claim of the bank employees that there has been a steep rise in the cost of living in West Bengal the banks in their written statement have denied the same and have referred to the consumer price index figures for the working class for the food and general indices published for the city of Calcutta by the Government of West Bengal. The original base for that index number is 1939=100. The banks have referred me to table 59 at page 93 of the August 1957 issue of the Monthly Abstract of Statistics published by the Government of India, Cabinet Secretariat, Central Statistical Organisation, New Delhi, in which the consumer price index numbers for the working class in Calcutta have been adjusted to the common base 1949=100. For that purpose the conversion factor is 4.74 for the food index and 3.48 for

the general index. In that table are also shown the all India average consumer price index numbers for the food and general indices. From 1956 the comparative statement is as follows:

Base Adjusted 1949=100

	Calcutta		All India	
	Food	General	Food	General
1956				
January	86	92	95	97
February	85	91	95	97
March	88	93	99	100
April	93	97	103	103
May	95	98	103	104
June	97	101	106	106
July	103	105	107	107
August	104	106	110	109
September	103	105	109	108
October	102	105	110	109
November	100	104	111	110
December	98	102	110	109
1957				
January	98	102	107	107
February	96	101	108	107
March	96	100	107	107
April	96	99	107	107
May	98	101	110	109
June	Not available		111	111

36. From this statement it will be clearly seen that when worked out to a common base, the consumer price index number for the working class for Calcutta have been lower both for the food and the general index than the corresponding all India numbers. It, therefore, appears that there is no substance in the contention of the bank employees that the cost of living in Calcutta has shown a steeper rise than the all India average and that the all India average index number does not correctly reflect the rise in the cost of living in Calcutta. The Calcutta figures also establish that when the workmen started their agitation for payment of compensatory allowance in 1957, the consumer price index number for food was not higher than for the corresponding period in 1956.

37. It will thus be seen that there had not, at any time, particularly when the bank employees in West Bengal made this demand for compensatory allowance, an increase of 10 points over the figure of 144 (base 1911=100) in the all India average Consumer Price Index Number for any period of 6 months, ending June or December in any year to justify the payment of increased dearness allowance to them. As I have stated earlier, the demand for compensatory allowance having been made on the alleged ground of steep rise in the price of essential commodities and articles of necessity in West Bengal is in effect a demand for payment of higher dearness allowance than they were entitled to under the modified Award. As the conditions prescribed in the modified award have not been fulfilled to justify the payment of higher dearness allowance, this demand would not be maintainable in law.

38. Taken on any other footing the demand for compensatory allowance can only amount to one for payment of additional cash emoluments to the

bank employees. Such a demand cannot be considered independently of the total emoluments paid to the bank employees and would involve the re-opening of the whole question of the wage structure which has been so recently settled after the protracted labours of the Sastry Tribunal, the Labour Appellate Tribunal and the Bank Award Commission and which have been made binding on the parties by the provisions of Section 4 of the Industrial Dispute (Banking Companies) Decision Act, 1955 upto 31st March 1959.

39. In the memorandum of 20th August 1957, the demand for compensatory allowance was sought to be justified on the additional ground that the banks had since the modified award was made, increased their business and had been earning large profits. But this even if true, cannot be any justification for payment of compensatory allowance to the bank employees, as at best it would be a ground for payment of bonus out of higher profits. The Bank Award Commission in its Report has stated that the recommendations contained in its report were based on the assumption that in future years there would be an expansion of banking business in the country. The modified award thus had taken this very factor into account in fixing the emoluments and terms and conditions of service of bank employees and this cannot therefore be taken as a ground for justifying the demand for payment of any compensatory allowance to the bank employees.

40. In the result, my finding on matter (a) under reference is that in view of the award of the All India Industrial Tribunal (Bank Disputes), Bombay, constituted by the Notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated 5th January 1952 as modified in the manner referred to in Section 3 of the Industrial Dispute (Banking Companies) Decision Act, 1955 (Act XLI of 1955) the demand for compensatory allowance by the workmen employed in the banking companies under reference, is not maintainable.

41. In view of this finding, I am not called upon to adjudicate upon the second matter under reference with regard to what should be the amount of compensatory allowance having regard to the considerations mentioned in clauses (i), (ii) and (iii) thereto.

42. I shall now deal with the case of the United Bank of India Limited which, whilst adopting the statement submitted by the Indian Banks Association, has, having regard to some special features of its own, filed a separate supplementary written statement.

43. This bank was formed by the amalgamation in 1950 of (1) Comilla Banking Corporation, (2) Comilla United Bank Limited, (3) Hooghly Bank Limited, and (4) Bengal Central Bank Limited. The Sastry Tribunal classified this bank as a class 'B' bank and directed that it should continue as such till 31st December 1954 after which it must take its place on the then position of its working funds as a class 'A' Bank. (see para 68 of the Sastry Award). The Labour Appellate Tribunal by its decision (para 108) directed that the relief granted to this Bank by the Sastry Award should be extended till 31st December 1955. Thereafter, the Government of India by its modification Order dated 24th August 1954 exempted this bank from the operation of the Labour Appellate Tribunal's decision. Thus at that stage the bank was not even covered by the Sastry Award. The Bank Award Commission (paras 325 and 326 at page 173) recommended that this bank should implement the Sastry Award applicable to class 'B' banks for a period of three years from 1st August 1955, subject to certain recommendations stated in para 326 of the Report.

44. The Sastry Tribunal in its award recommended that if on the implementation of its award it became necessary for this bank to reduce its establishment charges in the light of the pay scales laid down in the award, it would be a matter between the bank and its employees as to how retrenchment was to be effected. Thereafter, the question regarding the position of surplus staff and retrenchment necessary was referred by the Government of India to the Central Government Industrial Tribunal at Dhanbad for adjudication. The Bank Award Commission recommended that the question of retrenchment which had been referred to the Dhanbad Tribunal should be decided as early as possible and the recommendations of the Tribunal should thereafter be implemented without delay.

45. In its written statement this bank has stated that after the publication of the recommendations of the Bank Award Commission but before the Industrial Dispute (Banking Companies) Decision Act, 1955 came into force, the employees of this bank started an unjustifiable agitation against the recommendations of the Bank Award Commission and threatened to go on general strike with effect from 23rd September 1955, "for wrongfully and illegally forcing the bank to submit to these demands which were found to be untenable by the Sastry Award and the Bank Award Commission." It appears that the workmen moved the Patna High Court and obtained an *ex-parte* interim order on the Dhanbad Tribunal but upon the bank placing the correct position before the Court, the Patna High Court on 22nd September 1955 passed an order restraining the Employees' Association or its office bearers from participating in the strike proposed to be held from 23rd September 1955. The employees, in defiance of the said injunction order of the Patna High Court, resorted to the strike on and from 23rd September 1955, with the result that the bank was forced to go beyond the terms of the Award and enter into an agreement with the Employees' Association on 24th September 1955 before the Conciliation Officer (Central), Calcutta. The terms of the said agreement are annexed as Exhibit 'A' to the written statement of this bank. Under the terms of this agreement the bank agreed not to press its contention before the Dhanbad Tribunal as to the need for retrenchment and it further agreed to make a joint application to the Government of India that the retrenchment case referred to the Dhanbad Tribunal may be treated as having been settled. The bank also agreed to implement the Labour Appellate Tribunal's decision subject to the modification that may be made therein by Government of India on the recommendations of the Bank Award Commission. In other respects, subject to certain modifications, it agreed to implement the Labour Appellate Tribunal's decision for class 'B' banks from 1st August 1955 and from 1st August 1959 to apply the terms applicable to class 'A' banks also subject to certain modifications. The agreement was drawn up with a scheme extending upto 1st August 1964 and one of the terms of the agreement specifically provided as follows:

"That during the subsistence of this agreement no further demand shall be put forward by or on behalf of the employees in regard to the items and issues adjudicated upon by the Labour Appellate Tribunal."

According to the bank, under the terms of the said agreement, it took upon itself additional financial burden beyond what was recommended by the Bank Award Commission. It did so relying on the specific understanding and assurance of the employees, as incorporated in the agreement of 24th September 1955, that they would not make any further demand or agitate for further improvement of the conditions of their service during the subsistence of the agreement. On the basis of the said agreement the bank did not press its contention for retrenchment of the staff before the Dhanbad Tribunal and a joint petition to that effect was filed before that Tribunal on 14th March

1956 and the case was disposed of by an award being given in terms of the settlement aforesaid and the same was published on 20th December 1956. According to the bank it had implemented the provisions of the agreement, which gave better emoluments and facilities to its employees than they would otherwise have been entitled to.

46. That in spite of the said agreement and after obtaining the full advantages thereunder, the employees of the bank re-agitated the settled demands and again threatened strike and in fact in July 1956 direct action by commencing illegal pen down strike and hunger strike by the President and the General Secretary of the Employees' Association within the bank premises, was resorted to. According to the bank, in view of the situation thus created, the bank was forced to grant further benefits as per agreement dated 23rd July 1956 (see Exhibit 'B' to the bank's written statement). Under this agreement the bank had to bear an additional recurring financial burden of Rs. 2.58 lakhs annually and a non-recurring burden of Rs. 24,000.

47. It appears that again in 1957 the Employees' Association in breach of the agreement last mentioned re-agitated the demands already settled and threatened direct action. One of the main grounds of the said demand as stated by the employees' association was due to the increased cost of living index due to all round increase in prices. The bank was again forced to yield to the demand of the employees as embodied in the bank's letter dated 27th June 1957 (Exhibit 'C' to the bank's written statement). The bank states that it agreed to this further additional load only on the clear understanding given by the Employees' Association that the workmen would not make any further demands in the near future. Under this last agreement, the bank agreed to increase the rate of dearness allowance to its clerical and subordinate staff effective from June 1957. The enhanced rate of dearness allowance is what is paid by the Class 'A' banks as against the dearness allowance applicable to class 'B' banks, which latter rate this Bank was liable to pay under the recommendations of the Bank Award Commission as embodied in Section 3 of the Industrial Dispute (Banking Companies) Decision Act, 1955. The bank has stated that the minimum dearness allowance granted gave an increase of Rs. 15 per month to its employees. Under the agreement of June 1957, the bank took upon itself the additional load of Rs. 28,000 per month from June 1957 and a non-recurring loan of Rs. 30,000 for the year. According to the bank, the additional loan would be Rs. 52,000 per month from 1958. The bank in its written statement has given the following tabular statement showing the special concessions which it has made:—

“(A) the amount due to an employee as per Bank Award Commission's recommendations:

IN CALCUTTA

From August, 1957.

From August, 1958.

	Clerical Staff	Subordinate Staff	Clerical staff	Subordinate staff
	Rs.	Rs.	Rs.	Rs.
Joining in January 1951	143	81	153	83
Joining in August 1955	124	73	128	75

(B) The amount granted as per agreement dated 24th September 1955, modified by subsequent agreements, with effect—

	From August 1957		From August 1958.	
	Clerical Staff	Subordinate staff	Clerical staff	Subordinate staff
	Rs.	Rs.	Rs.	Rs.
Joining in January 1951	170.40	97.00	198.40	104.40
Joining in August 1955	143.00	88.00	158.00	96.50

48. In spite of all these concessions granted by the Bank and in breach of their solemn undertaking not to make fresh demands, the general employees of this bank on 24th August 1957 *i.e.* within two months of the date of the last agreement, made a fresh demand for compensatory allowance at 25 per cent. of their basic pay with a minimum of Rs. 20 per month. No specific demand was however made by the Employees' Association of the bank for payment of any compensatory allowance. But by letter dated 16th September 1957 signed jointly by the General Secretary, United Bank of India Employees Association, Secretary, Calcutta State Committee and Secretary, West Bengal State Committee, the Employees Association threatened a general strike with effect from 18th September 1957 on the demand for payment of the said compensatory allowance. The workmen of this bank went on strike from 18th September 1957 which was continued till 18th October 1957 after which the strike in all banking establishments in West Bengal was called off. The bank has stated that it has in all 80 branches in India, out of which 48 branches are in West Bengal. The bank has stated that the employees are bound by the Industrial Dispute (Banking Companies) Decision Act, 1955 and the agreement arrived at between the bank and its employees which form part of the Dhanbad Tribunal award and the claim of the employees for compensatory allowance should be rejected. It has in the alternative submitted that the increased dearness allowance already granted by this bank is sufficient to compensate for any increase in the cost of living and no compensatory allowance at all should be granted to its employees.

49. In my opinion, this contention of the bank is completely justified. From the narration of the sequence of events as given above, it is clear that the employees of this bank have under threats and coercion made this bank pay them much better emoluments, particularly in the matter of dearness allowance, than they were entitled to under the Industrial Dispute (Banking Companies) Decision Act, 1955. The workmen had entered into an agreement with the bank as far back as on 24th September 1955 and agreed not to put forward any further demand in regard to the matters covered by the decision of the Labour Appellate Tribunal till the subsistence of that agreement. But in spite of this agreement the bank was twice forced to yield to further demands, of the workmen and by the last agreement of June 1957 its workmen were granted a substantial increase in their dearness allowance on the ground of increased cost of living. Yet the workmen of this bank again made a further demand for an increase in their basic pay by 25% with a minimum of Rs. 20 by way of compensatory allowance alleging rise in the cost of living. The bank has presented a pathetic picture of how on every occasion under threats of strike it had to yield to the demands of its employees. In spite of having made substantial concession to the workmen in June 1957 by which their dearness allowance was substantially increased far beyond the level to which they were entitled to under the modified award, the workmen of this bank did not hesitate to make further demand for Compensatory Allowance

and what is worse went on strike in support of the said demand paralysing the business of this Bank for a period of 31 days, which must have caused the Bank heavy loss of business. I have, therefore, not the least hesitation in holding that the demand of the workmen of this Bank (the United Bank of India Limited) for compensatory allowance is not only not maintainable but appears to be completely un-justified.

50. Before I part with this reference, it would not be out of place to refer to the 31 days' strike to which the bank employees resorted to in support of their demand for compensatory allowance. The strike not only paralysed the working of the banks, adversely affected trade and commerce in the entire State of West Bengal but also caused considerable hardship to the general public, particularly as it was timed during the Puja Festival. Its repercussions were thus felt by every section of society. I leave it to the bank employees to consider whether this conduct was in keeping with social ethics and whether such conduct helped to enlist public sympathy to which they had themselves appealed.

SALIM M. MERCHANT,
Industrial Tribunal.

The 5th November 1957.

[No. IR-10 (69)/57.]
P. M. MENON, Secy.

